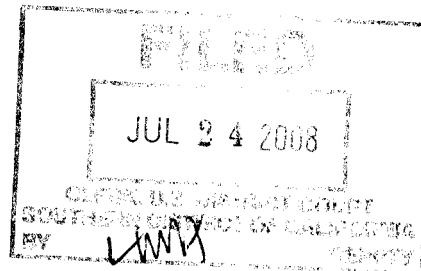


ORIGINAL

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10 UNITED STATES DISTRICT COURT
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12 SOUTHERN DISTRICT OF CALIFORNIA
13
14 UNITED STATES OF AMERICA, Plaintiff, Magistrate Case No. 08MJ2061
15 v. ANDRES REGALADO (1), Defendant. STIPULATION OF FACT AND JOINT
16 MOTION FOR RELEASE OF MATERIAL WITNESS(ES) AND ORDER THEREON
17 (Pre-Indictment Fast-Track Program)

18 IT IS HEREBY STIPULATED AND AGREED between the plaintiff, UNITED STATES
19 OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and James P.
20 Melendres, Assistant United States Attorney, and defendant ANDRES REGALADO, by and through
21 and with the advice and consent of defense counsel, Robert R. Hessler, that:

22 1. Defendant agrees to execute this stipulation on or before the first preliminary hearing
23 date and to participate in a full and complete inquiry by the Court into whether defendant knowingly,
24 intelligently and voluntarily entered into it. Defendant agrees further to waive indictment and plead
25 guilty to the pre-indictment information charging defendant with a non-mandatory minimum count
26 of Bringing in Aliens Without Presentation and Aiding and Abetting, in violation of 8 U.S.C.
27 § 1324(a)(2)(B)(iii) and 18 U.S.C. § 2.

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30 JPME:lg:7/9/08

1 2. Defendant acknowledges receipt of a plea agreement in this case and agrees to
2 provide the signed, original plea agreement to the Government not later than five business days
3 before the disposition date set by the Court.

4 3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or
5 before August 6, 2008.

6 4. The material witnesses, Aurelio Santos-Perez, Jesus Lopez-Cruz and Cecilia Herrera-
7 Hernandez, in this case:

8 a. Are aliens with no lawful right to enter or remain in the United States;
9 b. Entered or attempted to enter the United States illegally on or about
10 July 3, 2008;
11 c. Were found in a vehicle driven by defendant and in which codefendant Judith
12 Elizabeth Quezada was a front seat passenger at the San Ysidro, California, Port of Entry (POE), and
13 that defendant knew or acted in reckless disregard of the fact that they were aliens with no lawful
14 right to enter or remain in the United States;

15 d. Were paying or having others pay on their behalf \$3,000-\$4,000 to others
16 to be brought into the United States illegally and/or transported illegally to their destination therein;
17 and,

18 e. May be released and remanded immediately to the Department of Homeland
19 Security for return to their country of origin.

20 5. After the material witnesses are ordered released by the Court pursuant to this
21 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any
22 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any proceeding,
23 including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

24 a. The stipulated facts set forth in paragraph 4 above shall be admitted as
25 substantive evidence;

26 b. The United States may elicit hearsay testimony from arresting agents
27 regarding any statements made by the material witness(es) provided in discovery, and such testimony

28 Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in
United States v. Andres Regalado (1)

1 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest
2 of (an) unavailable witness(es); and,

3 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),
4 "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted
5 and cross-examined the witness(es) who made the "testimonial" hearsay statements, defendant
6 waives the right to confront and cross-examine the material witness(es) in this case.

7 6. By signing this stipulation and joint motion, defendant certifies that defendant has
8 read it (or that it has been read to defendant in defendant's native language). Defendant certifies
9 further that defendant has discussed the terms of this stipulation and joint motion with defense
10 counsel and fully understands its meaning and effect.

11 Based on the foregoing, the parties jointly move the stipulation into evidence and for the
12 immediate release and remand of the above-named material witness(es) to the Department of
13 Homeland Security for return to their country of origin.

14 It is STIPULATED AND AGREED this date.

15 Respectfully submitted,

16 KAREN P. HEWITT
United States Attorney

17 Dated: July 24, 2008

for JAMES P. MELENDRES
Assistant United States Attorney

20 Dated: 7/11/08

21 ROBERT R. HENSSLER
Defense Counsel for ANDRES REGALADO

22 Dated: 7/11/08

23 ANDRES REGALADO
Defendant

28 Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in
United States v. Andres Regalado (1)

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ORDER

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Upon joint application and motion of the parties, and for good cause shown,

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THE STIPULATION is admitted into evidence, and,

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IT IS ORDERED that the above-named material witness(es) be released and remanded
5 forthwith to the Department of Homeland Security for return to their country of origin.

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SO ORDERED.

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Dated:

7/24/08


United States Magistrate Judge

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Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in
United States v. Andres Regalado (1)